Supreme Court, U.S.
FILED

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No. _____

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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1998

****

Colonel Donald I. Rehman (USA, Ret.),
Petitioner,

v.

ECC International Corp.,
An Orlando, FL, For-Profit Defense Contractor Corporation
Respondent.

****

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

****

PETITION FOR WRIT OF CERTIORARI

****

Colonel Donald I. Rehman (USA, Ret.)
1390 Windy Ridge Court
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(407) 260-0690
Petitioner Pro Se

44 pp

QUESTIONS PRESENTED

1. ***JURISDICTIONAL ISSUE***: Whether Active Service United States District Court Judges who are assigned to one Circuit:

- can be designated to serve on Appellate Panels in another Circuit and while temporarily serving on those Appellate Panels at the Circuit Appellate level,
- to *simultaneously* conduct District Court Civil Trials, as a Visiting Judge, at a District Court in that same Circuit they are visiting;
- while knowing full well that any appeal from those District Court Trials will go before the exact same 3 Appellate Judges at the Circuit with whom the visiting Judge has been and is *simultaneously* sitting on Appellate Panels with;
- which Appellate Panel then prohibits oral argument on the Appeal from the District Court Trial and *per curiam* affirms without discussion all results from the Visiting District Judge conducted civil trial, thereby giving rise to the public perception that:
- there is unconstitutional commingling of levels of jurisdiction, Federal District & its Circuit Appellate,
- there is deprivation of Constitutional right of Citizens to fair civil trial and independent unbiased Appellate Review thereof,
- thus giving rise to the appearance of Federal Appellate Judges being in collusion with their fellow Visiting Judges and vice versa,

QUESTIONS PRESENTED – Continued

who simultaneously conduct District Court Civil trials while sitting on Appellate Panels with them, and

- contrary to the mandates of 28 U.S.C. § 292(d) which precludes simultaneous service at both Appellate and District Court levels in the same Circuit for the same Visiting Judge from another Circuit; and

- causes loss of public confidence in the Federal Judiciary and fosters public disrepute towards all Federal District & Appellate Judges, as well as the entire Federal Judicial System?

2. ***JUDICIAL CONFLICT OF INTEREST***: Whether 3 Appellate Panel Judges can refuse to disqualify themselves in Rehman's Appeal, because of Conflict of Interest, when they have been, and are sitting on other Appellate Appeals Panels with the same judge who conducted the trial court action then on appeal; and in effect they are required to judge the trial court decisions of their brethren appellate-by-designation Judge; thus giving rise to the appearance of judicial collusion if they do not disqualify themselves from the Appeal?

3. **INTENTIONAL OBSTRUCTION OF CIVIL JUSTICE & DISENFRANCHISEMENT OF CIVIL RIGHTS**: Whether The Chief Justice and The Associate Justices of The Supreme Court of the United States will, if they deny Certiorari in this matter, be indicating that they tolerate,

QUESTIONS PRESENTED – Continued

condone, support and encourage a Defendant's Counsel[1] at a 31 U.S.C. § 3730(h) Civil Trial, to have knowingly and intentionally lied directly to the Jury in that Civil Trial, by the Attorney falsely telling the Jury that the United States Govèrnment found no fraud at ECC International Corporation when it did; because the Attorney is a paid Advocate for his Defense Contractor Client, and the Plaintiff is only a Pro Se, such that the Attorney unconstitutionally deprived the Plaintiff of a fair civil trial, and by Attorney outrageous and unprofessional conduct "won" at trial on behalf of his Defendant Defense Contractor client?

4. **DEFECTIVE JURY INSTRUCTIONS**: Whether The Chief Justice and The Associate Justices of The Supreme Court of the United States will, if they deny Certiorari in this matter, tolerate, condone, and support the formulation of District Court Civil Trial Jury Instructions which were such a misstatement of the 31 U.S.C. § 3730(h) Federal Statute and so erroneous, as to totally confuse the Jury, who admitted on the record at trial that they could not even unanimously answer the first 3 Special Interrogatories to the Jury at trial so they ignored and skipped them and went to the 4th Special Interrogatory; yet the Trial Judge refused to declare a mistrial and refused to allow the jury to be interrogated on how they were able to arrive at their verdict while ignoring the Court's pre-

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[1] Attorney Allen J. McKenna, Partner and Shareholder, in the law firm of Garwood, McKenna, McKenna & Wolf, P.A., Orlando, Florida; an Officer of the Court in this Supreme Court of the United States.

QUESTIONS PRESENTED – Continued

verdict instructions to them that they mandatorily must unanimously answer the 1st 3 Special Interrogatories to the Jury before proceeding to and answering the 4th Special Interrogatory?

5. **EXCLUSION AT TRIAL OF RELEVANT, MATERIAL, & CONCLUSIVE EVIDENCE OF DEFENDANT'S DEFENSE CONTRACT/FALSE CLAIMS FRAUD:** Whether The Chief Justice and The Associate Justices of The Supreme Court of the United States will, if they deny Certiorari in this matter, tolerate, condone, and support, in whistleblower Civil Trials under 31 U.S.C. § 3730(h), the Whistleblower Protection Provisions of the Federal False Claims Act, the exclusion at Civil Trial, of 4 Plaintiff Federal Employee witnesses including a Federal Government Criminal Investigator, and all Federal Government documents, which corroborate with certainty the commission by the Defendant of Defense Contract Fraud/False Claims which the whistleblower blew the whistle on and was retaliated against for, despite Defendant's Counsel knowingly & intentionally lying to the jury at trial by falsely saying to the jury that the Government supposedly found no fraud; an exclusion of Rehman's credible, material and relevant evidence by the Trial Court Judge on the erroneous grounds that evidence of the commission of a False Claims Act crime is supposedly prohibited in 31 U.S.C. § 3730(h) civil trials without the Defendant first being criminally convicted of False Claims crime by the Federal Government; hence, lack of an employer being prosecuted for criminal wrongdoing by the Federal Government supposedly invalidates all

QUESTIONS PRESENTED – Continued

Whistleblower Federal Statutory protection against retaliation, thus subjecting whistleblowers to employment termination and total professional career destruction by the employer, with no recourse at law and in the Federal Courts of the United States of America; thereby promoting, fostering, and judicially helping employers who steal from the public through False Claims, to personally and professionally *destroy* any whistleblowing employee who dares to expose such despicable crimes and who refuses to commit a felony by refusing to participate in his employer's fraud against the United States of America?

6. **MINIMUM & JUST STANDARDS FOR APPELLATE REVIEW**: Whether The Chief Justice and The Associate Justices of The Supreme Court of the United States will, if they deny Certiorari in this matter, be establishing, fostering, supporting and condoning a United States Federal Appellate Court system whereby law abiding citizens of the United States of America, who have honorably served the Nation and faithfully obeyed its laws throughout their entire lifetime, are relegated to the status of being deprived of *equal treatment under the law*, if they pursue their civil appeals as *pro se* under 28 U.S.C. § 1654, when they respectfully raise on appeal and properly document 21 substantial Trial Court errors that occurred at the District Court Civil Trial, are denied any oral argument thereon at the Appellate Level, having paid the same $105 Appellate Docketing Fee as those Appellants who are represented by Attorneys and get oral argument on appeals and get decisions with full Appellate Court rationale stated; and after waiting over a

QUESTIONS PRESENTED – Continued

half year for Appellate Court decision after the last Brief was filed, get a 1 sentence 3 Judges, *per curiam*, Appellate Court decision on a fellow-appellate panel judge's trial court work, that is totally devoid of all supporting rationale, which says:

> *"Having considered the record and briefs, we find no reversible error in the jury instructions and special interrogatories, the challenged evidentiary rulings, or the denial of the motion to interrogate the jury."*

after The Appellate Judges in their decision cited cases pertaining to:

> Americans with Disabilities Act,
> Civil Antitrust Dispute,
> Prior Sexual History Evidence, and
> Cocaine Conspiracy,

all of which contain no facts similar, or even applicable, to this Whistleblower Case at Bar, nor address issues raised on appeal in this matter, and when combined with all other Judicial System occurrences, are unjustly bizarre?

7. **UNJUST DECISIONS IN *PRO SE* APPEALS:** Whether The Chief Justice and The Associate Justices of The Supreme Court of the United States will, if they deny Certiorari in this matter, be establishing, fostering, supporting and condoning a technique in use by the United States Court of Appeals for the 11th Circuit, whereby that Appellate Court in this pro se appeal, cited cases which do not furnish any decision whatsoever for the facts and situation in the case under appeal, then in a one sentence

QUESTIONS PRESENTED – Continued

"catch-all" phrase, find all done at the Trial Court, by their fellow Appellate Panel Visiting Judge, to have been proper; thereby, in effect giving rise to a public perception that the Appellate Process in this case may have been both unconstitutional and a mockery of justice for United States Citizens, when it encompasses those enumerated circumstances now before this Court?

8. **ENTITLEMENT TO NEW TRIAL**: Whether any or all of the 21 substantial Trial Court errors that occurred at the District Court Civil Trial, and/or the other occurrences encompassed in the QUESTIONS PRESENTED above, as well as the occurrences at the Appellate Level, entitle Rehman to a new Civil Trial on his 31 U.S.C. § 3730(h) Claim and to his costs of the first trial and its appeals?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgments below.

OPINIONS BELOW

The decision of the highest federal court to review the merits, USCA 11th Circuit, is not officially reported. The decision in Case No. 97-2763 is reprinted at **Appendix A** to this petition, *infra*. The Judgment of the Federal Trial Court, in case No. 90-425-Civ-Orl-22, is not officially reported. That Judgment appears at **Appendix B** to this petition, *infra*.

JURISDICTION

The date on which the highest federal court, USCA 11th Circuit, decided this case was August 25, 1998. A copy of that decision appears at **Appendix A**, *infra*.

A timely Petition for Rehearing was thereafter denied on the following date: October 13, 1998, and a copy of the order denying Rehearing appears at **Appendix C**, *infra*.

The September 14, 1998 Order by the 3 Judges on the USCA 11th Circuit Appeals Panel (refusing to disqualify themselves for the Conflict of Interest of sitting on Rehman's Appeal Panel while at the same time they had been and were sitting on other Appellate Appeals Panels with the same Judge who conducted the civil trial being appealed by Rehman) appears at **Appendix D**, *infra*.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1) and Supreme Court Rules, Rule 10(a). The District Court had jurisdiction under 31 U.S.C. § 3730(h).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution, 5th Amendment:

Right to a Fair Civil Case Trial
Right to a Fair Civil Case Appeal
Right to Due Process of Law
Right to Equal Treatment Under the Law:

Title 28, United States Code, Section 292, subsection (d)

[28 U.S.C. § 292(d)] – Designation and Assignment of District Judges Temporarily to Either a District Court or to a Court of Appeals

Title 28, United States Code, Section 455, subsection (a)

[28 U.S.C. § 455(a)] – Disqualification of a Judge

Title 31, United States Code, Section 3730, subsection (h)

[31 U.S.C. § 3730(h)] – Whistleblower Protection Provisions of the False Claims Act

STATEMENT OF THE CASE

This Pro Se Petition, while not worded in the eloquent and precise legal terminology such as to be found in those prepared by Attorneys, will hopefully still convey with heartfelt respectful resounding clarity, unjust circumstances which have the effect of *compromising one of the basic principles of our beloved Country – EQUAL JUSTICE UNDER THE LAW FOR ALL.*

In May 1989, Colonel Donald I. Rehman, USA, Ret., hereinafter "Rehman," whose Biographical Sketch is contained at **Appendix E** hereto, became an employee, Manager of Logistics Support Department, of ECC International Corp. (hereinafter "ECC"); a For-Profit Defense Contractor having its main facility in Orlando, Florida. Shortly after commencing his ECC management employment, Rehman detected and repeatedly refused to participate in, defense contract fraud in the ECC workplace, and blew the whistle to ECC Management,[2] with the expectation that they would put a stop to it and make restitution to the United States Government. Unbeknownst to Rehman at the time, the Fraud allegedly went to, and was being managed by, the highest Management levels of ECC. The adverse events that then befell Rehman in his ECC employment, as a direct consequence of his refusals to participate in that defense contract fraud

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[2] To Mr. Ajit W. Hirani, ECC Vice President Engineering, Rehman's ECC Supervisor, who later (after Rehman was by ECC pretext fired for whistleblowing) was promoted to ECC Vice President and General Mgr. Training Simulation Division; but on or about November 5, 1998 Rehman believes Mr. Hirani was fired by ECC for Cause.

and for exposing it, are summarized in the one page flowchart contained at **Appendix F** hereto. Rehman was fired by ECC in March 1990 (after having been demoted, isolated, harassed, humiliated and professionally degraded by ECC) under the pretext that his job performance was supposedly unsatisfactory; this despite Rehman's over 30 years experience at managing people in both Military and Private Business sectors, his 2 masters degrees, in Logistics Management and an MBA, his professional certifications in Logistics by the Government & Industry, his lifetime management achievements, and those achievements in his ECC management position.

In May 1990, having been wrongfully fired for engaging in "protected activity" under 31 U.S.C. § 3730(h), and for repeatedly refusing to participate in that defense contract fraud, Rehman filed a lawsuit for wrongful termination of employment, and other claims, in Federal District Court (90-425-Civ-Orl-22) located in Orlando, Florida. ECC subsequently appealed a Trial Court denial of summary judgment, to the Eleventh Federal Circuit Court of Appeals in Atlanta, Georgia, and the United States Government (Department of Justice) entered the case as Amicus Curiae in support of Rehman's position, oral argument was granted for both Rehman & the Department of Justice, oral argument was held, and the ECC appeal was subsequently dismissed by the Appellate Court.

After Rehman was unlawfully fired, ECC Attorneys sent out approximately 108 letters to persons all over the United States, with the intent to make it difficult to impossible for Rehman to obtain witnesses for trial, to intentionally further retaliate against him for exposing

ECC defense contract fraud, through diminishment of his reputation, and to prevent any other employer from ever hiring Rehman, by portraying him as what Rehman deems, sort of "human garbage." The Orlando Federal Court Magistrate Judge later determined in effect that ECC had a 1st Amendment right to do all that to Rehman. Additionally, ECC filed a lawsuit against Rehman in Seminole County, Florida, Small Claims Court, in August 1991, seeking to deviously confiscate all Rehman's evidence and exhibits that Rehman had for evidence in his Federal Court lawsuit, by ECC falsely claiming what Rehman had in his possession was ECC property[3] (that Replevin case was stayed by the Small Claims Court State Judge until all Federal Court matters are concluded and it was ordered that Rehman would retain meanwhile all documentary evidence for use at his Federal Court Civil Trial).[4] Additionally, ECC/Its Attorneys have maliciously pursued at the Orlando Federal Court a Permanent Injunction that would ban Rehman for life from making a filing in any Court throughout the entire United States of America without first hiring an Attorney or getting a Federal Judge to approve the filing in advance. Hence ECC wants Rehman in effect to be deprived of Constitutional rights, access to all Federal Courts throughout the United States of America, for the rest of Rehman's life,

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[3] Including all copies of documents Rehman had personally written during lunch time and at home at night, and had given to ECC while employed there, which detailed the ECC defense contract fraud against the U.S. Government.

[4] Recently ECC Attorney has suggested withdrawal of ECC's Replevin action, probably fearing the adversity to ECC that might result from a Seminole County Florida Jury Trial.

and to be deprived of judicial redress for any and all civil wrongs. They also want to make Rehman pay to ECC all its legal fees and costs (they said to a newspaper reporter in 1997 that they have spent over $1 million dollars) in an amount that they know would bankrupt Rehman. They have not been satisfied with destroying Rehman's professional career; ECC now wants to drive Rehman into financial destitution. When the Orlando Federal Court refused to do all that, ECC in April 1998 appealed to the 11th Circuit (11th Circuit Case 98-2602). Ultimately that ECC *vendetta* appeal may reach this Supreme Court by ECC Appeal as they continue their efforts to retaliate against Rehman for exposing their defense contract fraud.

During the years that followed Rehman's Federal Court lawsuit filing, his case, pretrial was transferred from one U.S. District Judge to another numerous times, such that 4 different District Court Judges became the Presiding Judge in his case. The 3rd pretrial United States District Judge was assigned to Rehman's case on September 4, 1992. That 3rd United States District Judge, after having canceled the scheduled trial twice without stating any explanation for the cancellations, decided, perhaps because Rehman was *pro se* and for other reasons that would be favorable to ECC, to have a 4th United States District Judge, a Visiting in Active Service United States District Court (USDC) Judge to conduct the trial on Rehman's lawsuit. This Visiting USDC Judge:

–Is in Active Federal Judiciary Service at the Western District of Pennsylvania Federal District Court, in the 3rd Circuit,

–Located in Philadelphia, Pennsylvania, just approximately 18 miles from where the ECC headquarters was located at Wayne, Pennsylvania (it is unknown whether ECC Management in Pennsylvania had any personal/business/social relationship with the Pennsylvania USDC Judge),

–Had never before handled a 31 U.S.C. § 3730(h) Whistleblower case,

–Stated pretrial, on the Record, in effect, that 31 U.S.C. § 3730(h), Whistleblower protection, supposedly did not apply to managers, only to non-management persons (therefore espousing what amounted to unconstitutional non-equal treatment of United States Citizens under the law), and

–Had come to Orlando, Florida, on or about May 4, 1997 to conduct Rehman's Civil Claim trial, while simultaneously being a "sitting by Designation" member of numerous 11th Circuit Appellate Panels,

–Held a final pretrial hearing on Rehman's case on May 7, 1997, changing a number of decisions made prior in the case, those changes then being to the detriment of Rehman and in favor of ECC,

–Started the trial the next day, on May 8, 1997, after having made consequential changes the day before trial,

–Made 21 significant pretrial, during trial, and post-trial judicial errors so as to favor ECC, made it impossible for Rehman to have gotten a fair trial, and to judicially cause the Jury to find for ECC. Thus after 9 years of litigation by Rehman, he having spent more than $100,000

> in litigation expenses, with a logistics professional career decimated and his life having been adversely impacted, with ECC having committed fraud and the Federal Government "looking the other way" as regards criminal prosecution, with all the antics and unprofessional conduct of ECC Counsels at trial to deprive Rehman of a Fair Trial and Justice, this case now arrives at this *"Court of Last Resort."*

LODGEMENT OF DOCUMENTS: Rehman has provided to the Clerk of this Court, eleven (11) copies of the following documents, so as to make them available to any of the Supreme Court of the United States Justices who might care to examine them; and in so doing, would clearly see the injustice that occurred at the United States Court of Appeals for the Eleventh Circuit. To decide this Petition for Writ of Certiorari matter, without examining the following lodged documents, would leave the Justices uninformed about much that is crucial in this case:

> **Appellant's Brief – 11th Cir. Case 97-2763**
>
> **Reply Brief of Appellant – 11th Cir. Case 97-2763**
>
> **Suggestion of Rehearing En Banc: 11th Cir. Case 97-2763**

JURISDICTION ISSUE: The Visiting United States District Court Judge who conducted the Orlando, Florida Civil Trial in Rehman's case is The Honorable Maurice B. Cohill, Jr., Western District of Pennsylvania, 3rd Circuit. During calendar year 1997, Judge Cohill was designated and assigned, by authority of the Chief Justice of the United States under Title 28, United States Code, section 294(d), to perform judicial duties in the United States

Court of Appeals for the 11th Circuit. Published 11th Circuit 3-Judges Appellate Panels decisions, show that during 1997 alone, Judge Cohill sat by designation on at least 24 Appellate Panels (there may have been even more 11th Cir. Appellate Panels on which Judge Cohill sat, in which no decision was published or the appeals dismissed); while serving on 4 of those 11th Circuit Appellate Panels, Judge Cohill authored the 11th Circuit Appellate Panel Opinions on behalf of, and by authority of the United States Court of Appeals for the Eleventh Circuit; opinions which must be obeyed/followed/recognized by every federal District Court in Alabama, Florida and Georgia. The 11th Circuit panels upon which Judge Cohill was sitting on by designation, occurred immediately prior to, during, and subsequent to the May 8, 1997 to May 19, 1997 Orlando Civil trial conducted by Judge Cohill, on Rehman's lawsuit, and during the entire time Rehman's appeal was pending at the 11th Circuit. In fact, the 3 Judges at the 11th Circuit who were given Rehman's post trial Appeal to decide were, at the same time, already simultaneously sitting on 11th Circuit Appellate Panels with Judge Cohill, whose District Court trial decisions they were required to evaluate by Rehman's appeal to the 11th Circuit. However, for them to do that, was a clear Conflict of Interest. The 3 Judges who evaluated Rehman's Appeal, 97-2763, were Judges R. Lanier Anderson, Susan H. Black, and Joel F. Dubina. These three (3) 11th Circuit Judges, had been sitting on 11th Circuit Panels with Judge Cohill as follows:

Judge Anderson – 7 Panels with Judge Cohill
Judge Black – 12 Panels with Judge Cohill
Judge Dubina – 22 Panels with Judge Cohill

During 1977 & 1998 Judge Cohill sat on at least 35, probably more, 11th Circuit Appellate Panels. As previously mentioned, Judges Anderson, Black and Dubina did a *per curiam* affirmed order, having prohibited any oral argument in Rehman's Appeal, concealing all rationale for their decision, declaring everything their fellow Appellate by Designation Judge, Judge Cohill, did to Rehman at the District Court trial as being perfectly fine, even though there were violations of statutory law, violations of on-point controlling precedent case law, and violations of the Federal Rules of Evidence, which if followed would have required Rehman to be granted a new trial.

The Supreme Court of the United States orders pertaining to Senior Visiting Judges from one circuit to another are signed personally by Chief Justice William H. Rehnquist and are titled: *"DESIGNATION AND ASSIGNMENT OF A SENIOR UNITED STATES DISTRICT JUDGE TO PERFORM JUDICIAL DUTIES IN ANOTHER CIRCUIT."*

In addition to specifying the specific dates for the duties, the Orders also say: *". . . . FOR THE PERIOD STATED AND FOR SUCH TIME AS NEEDED IN ADVANCE TO PREPARE AND TO ISSUE NECESSARY ORDERS, OR THEREAFTER AS REQUIRED TO COMPLETE UNFINISHED BUSINESS."* Once an Appellate Panel Opinion/Decision is announced, the litigants can file a Motion for Rehearing, Suggestion of Rehearing En Banc, etc., all of which requires the continued services of the visiting District Judge Sitting-By-Designation. Thus, such a visiting Judge would continue service for weeks or months on each of those Appellate Panels. At **Appendix**

G hereto is a list of the 11th Circuit Appellate cases upon which Judge Cohill sat by designation. At Attachment 3 within Attachment 1 of *REHMAN'S SUGGESTION OF REHEARING EN BANC* (one of the documents lodged with the Clerk of this Court) is contained a detailed list of those same 11th Circuit Appellate cases upon which Judge Cohill sat by designation. Those lists show the names of the Judges on each panel. Based upon the number of 11th Circuit cases that Judge Cohill was involved in during 1997 & 1998 (the Rehman pretrial, during trial, post-trial, and appeal periods) it is fair to conclude with certainty, that Judge Cohill was effectively continuously a member of 11th Circuit Appellate Panels; accordingly, there is no doubt that during the time he was at the Middle District of Florida, Orlando, Florida, conducting civil trial in Rehman's 31 U.S.C. § 3730(h) cause, he simultaneously had 11th Circuit Appellate Panels duties in which he was interacting with the 3 Appellate Judges (Anderson, Black and Dubina) who would then/were deciding Rehman's appeal. Further, 28 U.S.C. § 292(d), the authority under which Federal Judges are designated and assigned duties in another Circuit from their own, requires visiting Judges to perform duties at ***either*** the Appellate level ***or*** the District Court level not both, as Judge Cohill was allowed to do. Even if 28 U.S.C. § 292(d) did not prohibit simultaneous service at Appellate and District Court levels in the same Circuit, for Visiting Judges, the public perception of what simultaneous service causes, would be detrimental to the public's image of the fairness of the judicial system and raise inferences of alleged judicial collusion.

JUDICIAL CONFLICT OF INTEREST ISSUE: Shown at **Appendix G**, infra., are the thirty-nine (39) 11th Circuit Appellate Panels upon which Judge Cohill sat by designation, including those he sat with Judges Anderson, Black and Dubina, the three (3) Appellate Judges who decided Rehman's Appeal of the Judge Cohill conducted trial. Because of the extensive contact that Judge Cohill was having at the 11th Circuit with Judges Anderson, Black and Dubina, before, during, and after the Rehman Civil Trial, and throughout the entire period that Judges Anderson, Black and Dubina had Rehman's appeal for appellate consideration, as Judge Cohill sat on panels with them, it gives rise to the appearance that those Judges may have been discussing Rehman's Appeal between themselves and Judge Cohill. Further, it is not beyond the realm of possibility that there could have been some inappropriate Judicial influence brought to bear. Even if there were not, the whole process became *"tainted"* by the duality of Judge Cohill's simultaneous service at the District and Appellate levels of the same Circuit, the Eleventh, as a Visiting Judge to the 11th Circuit from Pennsylvania. The very first page in Rehman's 11th Circuit *APPELLANT'S BRIEF* (*lodged* at this Court) in the CERTIFICATE OF INTERESTED PERSONS, alerted Judges Anderson, Dubina, and Black that Judge Cohill, the Visiting Trial Judge, was regularly sitting on 11th Circuit Appeals Panels; yet, Judges Anderson, Black, and Dubina, who were already sitting on Panels with Judge Cohill when they received Rehman's Appeal for consideration, pretended they were not influenced, and improperly refused to disqualify themselves from Rehman's Appeal **(Appendix D**, infra.) and went on to

continue interacting with Judge Cohill on the Panels they were sitting on while examining his trial court actions in Rehman's Appeal. That is a serious Conflict of Interest situation, and sends a message of presumptive judicial collusion to the public, that this Supreme Court should not allow to stand.

INTENTIONAL OBSTRUCTION OF CIVIL JUSTICE & DISENFRANCHISEMENT OF CIVIL RIGHTS ISSUE: Contained within the *Appellant's Brief*, 11th Circuit Court of Appeals, copies having been "lodged" with the Clerk of this Supreme Court of the United States, at page 53 therein, is contained a quote of one of the Defendant's Counsel's lies to the jury that the Government found no fraud at ECC. If Certiorari is granted, the May 19, 1997, R16-800, Transcript will be filed with this Court as part of the Record on Appeal. Likewise, the Record will be filed whereby the Visiting Trial Court Judge, Judge Cohill, precluded Rehman at Trial from having witnesses and evidence to disprove the at trial false *"there was no fraud found"* assertions by ECC Counsel, because the Trial Judge said ECC hadn't been criminally convicted of any crime. He also denied Rehman's Motion for Mistrial.

DEFECTIVE JURY INSTRUCTIONS ISSUE: It is clear from Rehman's 11th Circuit *APPELLANT'S BRIEF* (copies *lodged* with the Clerk of this Supreme Court) exactly how and why the Trial Court Jury Instructions were defective, an incorrect statement of the law, were intended to guarantee that Rehman would lose at trial and ECC automatically win. Rehman trusts that the Justices of this Supreme Court will read that document, thus he will not duplicate those defective Jury Instructions

arguments here, but simply adopt them by reference. It is a fact that the Jury Instructions so confused the Jury at Trial that they were unable to answer the 1st 3 Special Interrogatories. All the Special Interrogatories are at Attachment 3 in Rehman's 11th Circuit *APPELLANT'S BRIEF lodged* with this Court.

EVIDENCE EXCLUSION ISSUE: The what, why, how and when, of the evidence exclusion issue, is fully documented in Rehman's *APPELLANT'S BRIEF lodged* with this Court. Suffice to say here that if evidence of the material and relevant nature that was excluded by Judge Cohill at Rehman's 31 U.S.C. § 3730(h) civil trial is not held to be error, then that Federal Statute becomes meaningless and no justice is possible thereunder for anyone.

MINIMUM & JUST STANDARDS ISSUE: It is sometimes said in our society that the Supreme Court of the United States exists in a sort of "sterile" atmosphere, apart from the daily struggles of life faced by the populace. From time to time the Court shows the perception may be wrong by promulgating a decision that shows it has insight and its *finger on the pulse of human endeavors*. When appellate Courts do per curiam affirmed decisions, void of rationale and all explanation, it only serves for loss of public confidence in the Judicial System. That often further complicates Supreme Court review. Rehman brings to this Court an opportunity to address how it feels on the issue and to prescribe minimum standards of *decision justice* to which the people of the United States are inherently entitled. The public speculation that arises when even this Court gives a 1 word *"denied"* on Certiorari Petitions, without any reason, only adds to the sense of public *"incompleteness"* in a judicial process so

fundamental to the perpetual strength and perseverance that our Nation must have to endure in an otherwise difficult world. This Supreme Court in the process by which human *plight* is either changed or ignored. Rhetorically, would it be so bad to at least say why, when it is or must be ignored?

UNJUST DECISIONS ISSUE: The weight of a single feather is unarguably insignificant, yet it is also a certainty that if enough feathers are piled upon the back of the 4-legged strong desert animal, which itself weighs from 1,000 to 1,600 pounds, which humanity calls a Camel that can carry about 1,000 pounds of load, the Camel may collapse under the burden of considerable feathers. So it is with the conglomeration of all that took place in this case. While individually the Trial Court and Appellate Court errors may to some, erroneously appear as *insignificant*, in truth, when taken all together, they are like the considerable burden that not even the hypothetical Camel could carry. Contained within this Petition, and as amplified by the documents which Rehman has *lodged* with the Clerk of this Court, are so many wrongs, errors, mistakes, and injustices, that they collectively are a *burden* which is almost beyond belief and that which should not be discounted as insignificant. It is in the totality of what occurred in this case, from inception to now, that cries out for the justice that only this Supreme Court can now render.

ENTITLEMENT TO NEW TRIAL ISSUE: There is no logical way to make a *"fix"* to what has occurred. A new trial is the just and necessary remedy.

———◆———

REASONS FOR GRANTING THE WRIT

In this case the appearance of impropriety may reflect adversely on the federal judiciary as a whole. Canon 1 of the Code of Judicial Conduct states that an independent and honorable judiciary is indispensable to justice in our society, Canon 2 provides that a judge should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary, and the commentary to that Canon states that he must avoid all impropriety and the appearance of impropriety. This highest Court in the Land must bear the ultimate responsibility within the limits of its jurisdiction, for insuring that the federal judiciary adheres scrupulously to these principles of impartial adjudication. Allowing visiting Federal Judges to simultaneously serve at District & Appellate levels in the same Circuit runs contrary to 28 U.S.C. § 292(d) and brings public perception disrepute upon the Federal Judiciary in its entirety.

Allowing an Attorney to knowingly and intentionally lie to a Jury, as occurred at civil trial in this case, and thereby destroy an opposing party's constitutional right to a fair trial, is truly a destructive force in the American Judicial System and promotes public disgust upon the profession of law, and disdain for any Judge who tolerates such despicable trial court conduct. Now it is this Court's turn to demonstrate to the Citizenry of this Country what is fair and just in this the United States of America.

Whistleblowers throughout the United States in the private sector, who serve the public good and in the

public's interest by courageously reporting/exposing defense contract fraud in the workplace, being committed by their employers against the Government of the United States of America, will by employer retaliation when it is perpetrated by and through their attorneys, have their professional careers destroyed and their personal and professional reputations decimated, with no recourse in the courts because certain attorneys have been judicially given inappropriate privilege harmful to the public.

Although United States Citizens have the Constitutional Right to represent themselves as pro se in any Court throughout the entire United States of America, when they choose to do so in an honorable and competent fashion, they thereby may be intentionally made to unconstitutionally suffer loss of due process, loss of equal protection under the law, and loss of the benefit of all favorable controlling precedent case law; all inflicted upon them solely by virtue of their choosing to be unrepresented by counsel.

This case represents such an outrageous occurrence of injustice, and raises such oppressive circumstances, that it cries out for the judgment from this Court. The potential for daily recurrence of "unconstitutional harm" to other citizenry of the United States, such as happened in this case, gives rise to the essentiality of this Honorable Court granting this Petition, so that it may advance the cause of justice throughout this Land, wherever there now exists a need for such judicial intervention.

CONCLUSION

This petition for a writ of certiorari should be granted. If it is not, then it is doubtful this Petitioner would ever understand with true certainty why not, nor those throughout this Nation and elsewhere, give due reverence to our American system of Justice. If nothing in this Petition moves not even one Supreme Court of the United States Justice to vote in favor of Certiorari, then even if this Pro Se had been represented by Counsel, this quest for truth, honor, and dignity might probably still have been for naught, because this law abiding Citizen rightly chose to respectfully question the actions of certain federal Judges, in relation to whom this Petitioner may be Judicially held as *inferior* in our Society.

May God Bless and Eternally Preserve this Honorable Court, and may its deliberations on this momentous plea be guided by the *hands of the Almighty* and by our common inevitable destiny, whatever that shall be.

WHEREFORE, PETITIONER Rehman respectfully requests this Court to grant this Petition.

Respectfully submitted this 24th day of *November* 1998.

COLONEL DONALD I. REHMAN
(USA, Ret.)
1390 Windy Ridge Court
Longwood, FL 32750-4501
(407) 260-0690
Petitioner Pro Se

APPENDIX A

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 97-2763
Non-Argument Calendar

D. C. Docket No. 90-425-CIV-ORL-22

DONALD I. REHMAN,

Plaintiff-Appellant,

versus

ECC INTERNATIONAL CORPORATION,

Defendant-Appellee.

Appeal from the United States District Court for the Middle District of Florida

---

(Filed August 25, 1998)

Before ANDERSON, DUBINA and BLACK, Circuit Judges.

PER CURIAM:

Appellant Donald I. Rehman appeals from the district court's judgment, pursuant to a jury verdict in the form of special interrogatories, against his claim under the whistleblower-protection provision of the False Claims Act, 31 U.S.C. § 3730(h). Rehman challenges the jury instructions and special interrogatories, certain evidentiary rulings, and the denial of a motion to interrogate the jury.

Whether jury instructions and interrogatories accurately reflect the law is reviewed *de novo*. *McNely v. Ocala Star-Banner Corp.*, 99 F.3d 1068, 1072 (11th Cir. 1996), *cert. denied*, 117 S. Ct. 1819 (1997). If a reasonable view of the case makes the jury's answers to interrogatories in a special verdict form consistent, then we must adopt that view. *Technical Resource Services (TRS) v. Dornier Medical Systems*, 134 F.3d 1458, 1464 (11th Cir. 1998). We review evidentiary rulings for abuse of discretion, and reverse only when the party asserting error has shown prejudice to a substantial right. *Judd v. Rodman*, 105 F.3d 1339, 1341 (11th Cir. 1997). Similarly, we review the denial of a motion to interrogate the jurors for abuse of discretion. *See United States v. Hastamorir*, 881 F.2d 1551, 1561 (11th Cir. 1989).

Having considered the record and briefs, we find no reversible error in the jury instructions and special interrogatories, the challenged evidentiary rulings, or the denial of the motion to interrogate the jury.

AFFIRMED.

APPENDIX B

United States District Court
Middle **DISTRICT OF** Florida
ORLANDO DIVISION

DONALD I. REHMAN

V.

ECC INTERNATIONAL CORPORATION

JUDGMENT IN A CIVIL CASE
CASE NUMBER: 90-4Z5-CIV-ORL-22
(Filed May 21, 1997)

[X] **Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.** In form of Special Interrogatories.

[ ] **Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.**

IT IS ORDERED AND ADJUDGED that judgment be and hereby is entered in favor of the Defendant, EEC International Corporation and against the Plaintiff, Donald I. Rehman together with costs, to be taxed by the Clerk.

APPROVED:

/s/ Maurice B. Cohill, Jr.
SENIOR DISTRICT JUDGE

Judgment is hereby entered accordingly;

May 20, 1997
Date

Richard D. Sletten, Clerk
Clerk

/s/ Richard Witan
(By) Deputy Clerk

APPENDIX C

IN THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

No. 97-2763

DONALD I. REHMAN,

Plaintiff-Appellant,

versus

EEC INTERNATIONAL CORPORATION,

Defendant-Appellee.

On Appeal from the United States District Court for the Middle District of Florida

---

(Filed Oct. 13, 1998)

ON PETITION(S) FOR REHEARING AND SUGGESTION(S) OF REHEARING EN BANC

(Opinion _____, 11th Cir., 19__, ____ F.2d ____).

Before: ANDERSON, DUBINA and BLACK, Circuit Judges.

PER CURIAM:

The Petition(s) for Rehearing are DENIED and no member of this panel nor other Judge in regular active service on the Court having requested that the Court be polled on rehearing en banc (Rule 35, Federal Rules of Appellate Procedure; Eleventh Circuit Rule 35-5), the Suggestion(s) of Rehearing En Banc are DENIED.

ENTERED FOR THE COURT:

/s/ Susan Ott Black
UNITED STATES CIRCUIT JUDGE

ORD-42
(6/95)

APPENDIX D

United States Court of Appeals
Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Thomas K. Kahn
Clerk

In Replying Give Number
Of Case And Names of Parties

September 14, 1998

MEMORANDUM TO ADDRESSEES:

RE: 97-2763 Rehman v. ECC International Corp.
DC DKT NO.: 90-00425 CV-ORL-22

The following action has been taken in the referenced case:

* The enclosed order has been ENTERED.

Sincerely,

/s/ Thomas K. Kahn
THOMAS K. KAHN, Clerk

Reply To: Alesha Warren
(404) 335-6173

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 97-2763

DONALD I. REHMAN,

Plaintiff-Appellant,

versus

ECC INTERNATIONAL CORPORATION,

Defendant-Appellee.

On Appeal from the United States District Court for the Middle District of Florida

---

(Filed Sep. 14, 1998)

BEFORE: ANDERSON, DUBINA and BLACK, Circuit Judges.

BY THE COURT:

Appellants motion "for the retroactive *nunc pro tunc* disqualification of Judges Anderson, Dubina & Black" is DENIED.

Appellant's motion to vacate the opinion in this appeal is DENIED.

Appellant's "motion to toll the time for appeal to the Supreme Court of the United States and to stay 11th Circuit mandate," construed as a motion to stay the mandate pending Appellant's petition for writ of *certiorari*" is DENIED.

APPENDIX E

BIOGRAPHICAL SKETCH

Colonel DONALD I. REHMAN, USA Ret.

Don Rehman is a Certified Professional Logistician (C.P.L.) with an MBA degree, a Master of Science degree in Logistics Management, and a Bachelor of Science degree in Military Science. He has over 30 years experience in the field of Logistics Management, and he has attended numerous technical courses related to his logistics career field.

As a teenager, Don Rehman commenced a military career, starting as a Private. Serving for more than 26 years, his military career was devoted almost exclusively to logistics. He received successive promotions reaching the grade of full Colonel, and worked in logistics assignments at operational levels, commodity command, major field command, and the Pentagon. He achieved Logistician certification from the cognizant Pentagon agency, in addition to earning his C.P.L. certification.

Subsequent to his military service, Don Rehman commenced a second career in industry where he worked for numerous years. He has been employed by E-Systems as Manager International Marketing & Logistics, Manager Division Profit Planning, and Manager Review & Analysis Group (Logistics). Subsequent to E-Systems employment, Don attended the University of South Florida (Tampa) on a full time basis to earn his second master's degree, an MBA. Upon graduation he joined Sanders Associates as Integrated Logistics Support (ILS) Program Manager. Later he became Manager of Logistics for Codex Corporation. In 1987 Don Rehman established

Rehman Consulting Services Company, specializing in Logistics Management, and relocated from New England to the Orlando Area. In May 1989, he accepted employment with ECC International Corp. in Orlando Florida. He subsequently was assigned as the Staff Assistant (for Logistics) to the Vice President Engineering. Don is now President, Whistleblowing Solutions, Inc., **http://www.whistleblowing.com**.

Don Rehman has been married for over 44 years to his wife Marian, whom he met at his first duty station after graduating from Officer Candidate School (OCS) and becoming a second lieutenant. They have two children. Their son Doug is a graduate of the University of South Florida with a B.A. degree majoring in Criminal Justice, is married, 2 children, worked for over a decade in Law Enforcement achieving national recognition, and is now self-employed as President, Rehman Technology Services Inc., **http://www.surveil.com**. Their daughter Linda is a graduate of the Medical College of Georgia with a B.S. in Dental Hygiene, and is following in her mother's footsteps by having married a second lieutenant, who over the years advanced in grade, and is now a full Colonel. She has 2 children and has worked full time in her medical specialty.

Don's hobbies are electronics, computer, and auto mechanics. He served over a year as Director/President of the Northridge Pointe Homeowners' Association, later as its Director/ Secretary, and he completed several years of service as a member of the Seminole County Sheriff's Civilian Review Board.

VIII. STATEMENT OF THE CASE: 90-425-CIV-ORL-22

ECC INT'L CORP. ALLEGEDLY HAS ROUTINE PRACTICE OF DEFENSE CONTRACT FRAUD

↓

ECC LOGISTICS MANAGER, PRIOR TO REHMAN, RESIGNS IN FRUSTRATION TO PRECLUDE BECOMING INVOLVED IN DEFENSE CONTRACT FRAUD

PLAINTIFF HIRED AS LOGISTICS MANAGER; DISCOVERS SERIOUS PROBLEMS AT ECC

↓

PLAINTIFF RAISES ISSUES RELATED TO ECC **DEFENSE CONTRACT FRAUD** WITHIN 1ST 2 WEEKS OF EMPLOYMENT COMMENCEMENT

↓

PLAINTIFF ATTEMPTS TO RESIGN AFTER 5 MONTHS OF ENDURING DISCRIMINATION & HARASSMENT, BUT PERSUADED TO STAY BY **FRAUDULENT ECC PRETENSES**

EXTENT AND NATURE OF PLAINTIFF DUTIES DEFINED AND MUTUALLY AGREED TO BUT 30+ DAYS LATER FULLY VIOLATED BY ECC

↓

PLAINTIFF ATTEMPTS TO RELIEVE "INCAPABLE" EMPLOYEE FROM SENSITIVE POSITION ON DEFENSE CONTRACT AND GIVE HIM A JOB MORE IN KEEPING WITH HIS ABILITIES(**THAT EMPLOYEE LATER COMMITS CONTRACT FRAUD**)

PLAINTIFF SUDDENLY DEMOTED, HUMILIATED, AND PLACED IN ISOLATION AS RETALIATION FOR EXPOSING AND TRYING TO PREVENT DEFENSE CONTRACT FRAUD

↓

PLAINTIFF PERMITTED TO INTERACT ONLY WITH EMPLOYEE WHOM HE TRIED TO RELIEVE. AFTER DEMOTION, OVER A 3 MONTHS PERIOD, BY DIABOLICAL ECC SCHEME, ALL PLAINTIFF'S WORK MUST BE SUBMITTED TO THAT EMPLOYEE, WHO CONTINUALLY DISAPPROVES IT ALL AND THROWS SOME/ALL IN TRASH

↓

OVER SEVERAL MONTHS, PLAINTIFF SUBMITS MEMORANDUMS TO ECC SUPERIOR DOCUMENTING COMPANY'S DEFENSE CONTRACT FRAUD IN EFFORT TO STOP IT & **HE REPEATEDLY REFUSED TO PARTICIPATE IN FRAUD ANGERING ECC**

PLAINTIFF BEGINS TO PREPARE WRITTEN FRAUD COMPLAINT TO U.S. GOV'T & **"QUI TAM" (FALSE CLAIMS ACT) ACTION IN NAME OF U.S. GOVERNMENT**

KNOWING THAT PLAINTIFF IS GOING TO "BLOW THE WHISTLE", EXTRAORDINARY PRESSURE PLACED UPON PLAINTIFF TO CONFISCATE ALL HIS FRAUD EVIDENCE AND MAKE HIM RESIGN. PLAINTIFF REFUSES TO RELINQUISH DOCUMENTS/RESIGN AND IS SUMMARILY FIRED UNDER PRETEXT OF UNSATISFACTORY JOB PERFORMANCE

↓

DEFENDANTS SEND WRITTEN LETTERS TO OVER 100 PERSONS THROUGHOUT U.S. IN MALICIOUS AND RETALIATORY EFFORT TO INTENTIONALLY IMPAIR PLAINTIFF'S PERSONAL AND PROFESSIONAL REPUTATION

↓

PLAINTIFF **SUFFERED PERSONAL HUMILIATION/MENTAL SUFFERING/LOSS OF** ENJOYMENT OF LIFE/DISCRIMINATION/JOB LOSS/DEVASTATION OF CAREER AND IMMENSE FINANCIAL BURDEN/LOSS, ETC.

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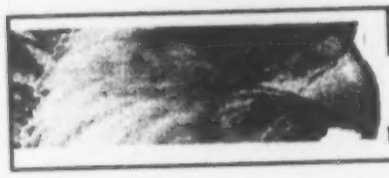
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Rahman's Civil Trial Judge: MAURICE B. COHILL
Judge Cohill's Involvement: 5 MAY 97 TO 16 JUNE 97
Rahman's 11 Cir Appellate Panel: Judges ANDERSON, BLACK & DUBINA
Pendency of Appeal at 11th Cir: 18 JUNE 97 TO 13 OCT 98

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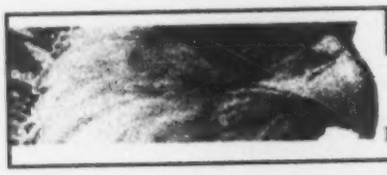
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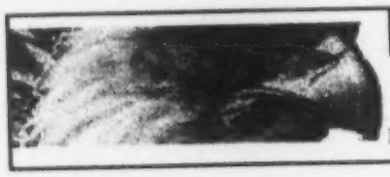
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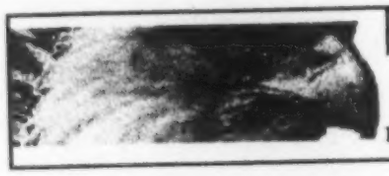
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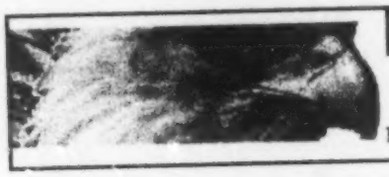
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